

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

OCTAVIO SILVA,

Plaintiff,

v.

LEPRINO FOODS COMPANY, et al.,

Defendants.

No. 1:20-cv-00987-DAD-EPG

ORDER CONCERNING DOCUMENT FILED  
IN ERROR

(ECF No. 8)

On January 7, 2021, Defendants mistakenly filed their initial disclosures, (ECF No. 8) which, pursuant to Federal Rule of Civil Procedure 26(a)(1), they were required to send to Plaintiff. Defendants contacted the clerk of court, indicating that the document was filed in error. The clerk temporarily sealed the document, pending action by the Court.

The Court has reviewed the filing. Although it appears to have been made in error, it does not appear to meet the standard for sealing non-dispositive documents in this Circuit. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (“Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point. A party seeking to seal a judicial record then bears the burden of overcoming this strong presumption by meeting the compelling reasons standard. That is, the party must articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in

1 understanding the judicial process. In turn, the court must conscientiously balance the competing  
2 interests of the public and the party who seeks to keep certain judicial records secret. After  
3 considering these interests, if the court decides to seal certain judicial records, it must base its  
4 decision on a compelling reason and articulate the factual basis for its ruling, without relying on  
5 hypothesis or conjecture.” (citations, quotation marks, and alterations omitted).

6 In addition, Federal Rule of Civil Procedure 79(a) requires that the clerk of court maintain  
7 a civil docket in a prescribed manner:

8 (1) *In General*. The clerk must keep a record known as the “civil docket” in the  
9 form and manner prescribed by the Director of the Administrative Office of the  
10 United States Courts with the approval of the Judicial Conference of the United  
11 States. . . .

11 (2) *Items to be Entered*. The following items must be marked with the file number  
12 and entered chronologically in the docket:

12 (A) papers filed with the clerk; . . .

13 Fed. R. Civ. P. 79(a).

14 Thus, docket entry 8 must be “marked with the file number and entered chronologically  
15 on the docket,” as it was a “paper[] filed with the clerk[.]” Fed. R. Civ. P. 79(a). The Court is  
16 unaware of any rule prescribed by the Administrative Office permitting the clerk to remove  
17 inadvertently filed documents. *Cf.* E.D. Cal. Local Rule 100(f) (“The Clerk shall maintain on the  
18 Court's website a comprehensive electronic filing user’s manual that contains the procedures  
19 applicable to electronic filing.”); CM/ECF User Manual,  
20 <http://www.caed.uscourts.gov/caednew/assets/File/CM%20Manual.pdf> (revised June 2013) (in  
21 the case of a document filed in error, “[t]he CM/ECF system does not permit you to change the  
22 misfiled document(s) or incorrect docket entry after the transaction has been accepted”).

23 Thus, to the Court’s knowledge, the Court cannot remove the item from the docket, and  
24 the information does not meet the relevant standard for sealing. As such, the Court will order it  
25 unsealed and direct the clerk to denote that the document was filed in error.

26 The Court notes that these documents have or will be served on Plaintiff. Moreover, the  
27 Court will take no action regarding this filing.

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Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of Court shall unseal Defendants' initial disclosures (ECF No. 8); and
2. The Clerk of Court shall reflect on the docket that entry number 8 was filed in error.

IT IS SO ORDERED.

Dated: **January 12, 2021**

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE